REMARKS

Claims 1, 8, 14-17, and 19-30 were pending. No claims have been added, amended, or cancelled. Therefore claims 1, 8, 14-17, and 19-30 remain pending in the application.

Claim Rejections

Claims 1, 8, 14, 16, 17, 20, 22, 25, 26, 28 and 29 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,734,589 (hereinafter "Kostreski"). Claims 15, 23, 24, and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kostreksi, in view of U.S. Patent 5,903,262 (hereinafter "Ichihashi"). Claims 19 and 30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kostreski in view of U.S. Patent Publication 2004/0221307 (hereinafter "Arai"). Finally, claim 21 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kostreski in view of U.S. Patent No. 6,208,335 (hereinafter "Gordon"). Applicant respectfully traverses the above rejections and requests reconsideration in view of the following discussion.

Applicant submits the present claims are patentably distinguishable from the cited art. For example, claim 1 recites a method that includes:

> "identifying in a broadcast stream a surfer application;
> downloading the Surfer application within a dedicated part of the Decoder memory, called Surfer Cache;
> executing said Surfer application from said Surfer Cache, wherein said Surfer application is started in a transparent mode by default, and whereby the Decoder is under control of said Surfer application;
> detecting a navigation event;
> checking whether said decoder is under the control of said surfer application;
> routing said navigation event to the surfer application in response to determining the decoder is under the control of said surfer application; and
> routing said navigation event to the built-in banner responsive to determining the decoder is not under the control of said surfer application."

In response to a previous Office Action of July 5, 2007, Applicant argued that at least the above highlighted features are neither taught nor suggested by the cited art either singly or in combination. More particularly, Applicant argued none of the cited art teaches a decoder or terminal with a built-in navigation application which is also configured to download alternative navigation applications configured to control the decoder. In the present Office Action, the Examiner responded by suggesting:

> "Kostreski clearly teaches 'if the navigation program ("alternative navigation applications") is not stored in the DET, then the pressing of the "GUIDE" button initiates a routine in the operating system ("built-in navigation application") to go to the appropriate control channel' and '[o]nce at least the program mapping portion of the software … are stored in DET memory, the DET uses that information to select program services in response to user inputs' (col. 27, lines 26-34)."

Apparently, the Examiner equates a routine in the operating system of Kostreski with the recited built-in banner. Applicant respectfully disagrees. Kostreski merely teaches that a routine in the operating system provides a mechanism for identifying the control channel of each broadcast service that is available. The portion of the operating system software that is built-in is capable of accessing, capturing, and executing the downloaded navigation software from the identified control channel. However, Kostreski does not teach that any built-in portion of the software is capable of providing navigation without the need to download additional navigation software. Rather, Kostreski teaches:

> "If the navigation program is stored in the DET, the pressing of the "GUIDE" button begins execution of the guide program, which directs the DET to download any necessary data, and thereafter provides a menu for the user. If the navigation program is not stored in the DET, then the pressing of the "GUIDE" button initiates a routine in the operating system to go to the appropriate control channel (e.g., channel 01, timeslot 0) to access, capture and execute the navigation software.
>
> Once at least the program mapping portion of the software and/or data are stored in DET memory, the DET uses that information to select program services in response to user inputs." (Kostreski, col. 27, lines 22-34, emphasis added).

As may be seen from the above, the DET does not use information to select program services in response to user inputs (i.e., navigation) until at least the program mapping portion of the software and/or data are stored in DET memory (i.e., downloaded from the appropriate control channel). Further, Kostreski clearly states that a routine in the operating system will "go to the appropriate control channel … to access, capture and execute the navigation software." Accordingly, Applicant finds no teaching or suggestion in Kostreski of a "built-in banner" as is recited in claim 1.

In addition, the Examiner cites Kostreski col. 15, line 58 to col. 16, line 5 as disclosing a built-in banner. However, the cited portion of Kostreski merely teaches that the factory-loaded operating system software provides a mechanism for identifying control channels of VIPs that are available on the network. As has been noted above, navigation software is downloaded from these control channels and is not part of the factory-loaded operating system. Additionally, the features recited above include determining whether the decoder is under the control of the downloaded surfer and routing navigation commands accordingly. These teachings are wholly absent from Kostreski. Applicant submits neither are such features found in the remaining references. Accordingly, Applicant finds no teaching or suggestion in the cited art of " routing said navigation event to the built-in banner, in response to determining no surfer application is available and the decoder is not under control of a surfer application," as is recited in claim 1. For at least these reasons, independent claim 1 is patentably distinguishable from the cited art, taken either singly or in combination, as is claim 8 for similar reasons. The dependent claims are likewise patentably distinguishable for at least the above reasons.

Also, in the present Office Action, claim 16 is rejected as being anticipated by Kostreski in Fig 5; col. 5, lines 58-66; col. 28, lines 40-52; and col. 28, line 66-col. 29, line 3. Claim 16 recites a method including "presenting an interface including a list of surfers that allows the user to select one particular surfer application from said list and to come back to said list after selection, if desired." However, the above features are not disclosed by Kostreski. The cited portions of Kostreski merely disclose primary and

secondary maps. The primary map may be used to select a VIP and the secondary map may be used as a program guide. However, neither map is equivalent to the recited list of surfers. Applicant submits neither are such features found in the remaining references. Accordingly, claim 16 is patentably distinguishable from the cited art, taken either singly or in combination, as are claims 17, 25, 26, and 27 for similar reasons.

In addition, claim 20 recites a method that includes downloading a plurality of surfer applications within corresponding surfer caches, and selecting one of said downloaded surfer applications. Kostreski, col. 31, lines 39-49 is cited as disclosing these features. However, the cited portion of Kostreski refers to downloading MPEG decoding data, not caching a plurality of downloaded surfer applications. Such disclosure is not equivalent to the above recited features. Applicant submits neither are such features found in the remaining references. Accordingly, claim 20 is patentably distinguishable from the cited art, taken either singly or in combination, as are claims 28 and 29 for similar reasons.

In view of the above, Applicant believes all claims to be in condition for allowance.

CONCLUSION

Applicant submits the application is in condition for allowance, and notice to that effect is respectfully requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant(s) hereby petition for such an extension. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5266-05900/RDR.

Respectfully submitted,

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